



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

VIA ELECTRONIC MAIL
DELIVERY RECEIPT REQUESTED

Kevin Podraza, President
Ecology Tech Inc.
d/b/a S&S Metal Recyclers II
kp@ssmr2.com

Re: Finding of Violation
Ecology Tech Inc.
d/b/a S&S Metal Recyclers II
Aurora, Illinois

Dear Kevin Podraza:

The U.S. Environmental Protection Agency is issuing the enclosed Finding of Violation (FOV) to Ecology Tech Inc. (d/b/a S&S Metal Recyclers II) (Ecology Tech or you) under Section 113(a) of the Clean Air Act, 42 U.S.C. § 7413(a). We find that you have violated the Clean Air Act (CAA), 42 U.S.C. § 7401 *et seq.*, specifically the regulations for the Protection of Stratospheric Ozone at 40 C.F.R. Part 82, Subpart F at your Aurora, Illinois facility. EPA promulgated these regulations as required by Section 608 of the CAA, 42 U.S.C. § 7671g.

Section 113 of the Clean Air Act gives us several enforcement options. These options include issuing an administrative compliance order, issuing an administrative penalty order, and bringing a judicial civil or criminal action.

We are offering you an opportunity to confer with us about the violations alleged in the FOV. The conference will give you an opportunity to present information on the specific findings of violation, any efforts you have taken to comply, and the steps you will take to prevent future violations. In addition, in order to make the conference more productive, we encourage you to submit to us information responsive to the FOV prior to the conference date.

Please plan for your facility's technical and management personnel to attend the conference to discuss compliance measures and commitments. You may have an attorney represent you at this conference.

The EPA contact in this matter is Karina Kuc. You may call her at (312) 353-5090 or email her at kuc.karina@epa.gov to request a conference. You should make the request within 10 calendar days following receipt of this letter. We should hold any conference within 30 calendar days following receipt of this letter.

Sincerely,

Nathan Frank
Supervisor, Air Enforcement and Compliance Assurance Section IL/IN

Enclosure

cc:

Kent Mohr, Manager
Compliance Section
Bureau of Air
Illinois Environmental Protection Agency
Kent.Mohr@Illinois.gov

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:

**Ecology Tech Inc.
d/b/a/ S&S Metal Recyclers II
Aurora, Illinois**

Proceedings Pursuant to
the Clean Air Act,
42 U.S.C. §§ 7401 et seq.

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FINDING OF VIOLATION

EPA-COE-22-IL-18

FINDING OF VIOLATION

The U.S. Environmental Protection Agency finds that Ecology Tech Inc. (d/b/a S&S Metal Recyclers II) (Ecology Tech) has violated EPA's regulations for the Protection of Stratospheric Ozone, Recycling and Emissions Reduction, found in 40 C.F.R. Part 82, Subpart F. Specifically, Ecology Tech has failed to properly recover refrigerant or verify proper refrigerant recovery from small appliances and motor vehicle air conditioners (MVACs) it accepts for recycling, as required by 40 C.F.R. § 82.155(b).

REGULATORY AUTHORITY

1. In accordance with Section 608 of the CAA, 42 U.S.C. § 7671g, EPA promulgated regulations at 40 C.F.R. Part 82, Subpart F. As specified at 40 C.F.R. § 82.150(a), the purpose of the regulations is to reduce emissions of class I and class II refrigerants and their non-exempt substitutes to the lowest achievable level during the service, maintenance, repair, and disposal of appliances.
2. Under 40 C.F.R. § 82.150(b), 40 C.F.R. Part 82, Subpart F applies to any person maintaining, servicing, or repairing appliances containing class I, class II, or non-exempt substitute refrigerants. It also applies to persons disposing of such appliances (including small appliances and motor vehicle air conditioners), refrigerant reclaimers, technician certifying programs, appliance owners and operators, manufacturers of appliances, manufacturers of recovery and/or recycling equipment, approved recovery and/or recycling equipment testing organizations, and persons buying, selling, or offering to sell class I, class II, or non-exempt substitute refrigerants.
3. Under 40 C.F.R. § 82.152, an appliance is any device which contains and uses a class I or class II substance or substitute as a refrigerant and which is used for household or commercial purposes, including any air conditioner, MVAC, refrigerator, chiller, or freezer. For a system with multiple circuits, each independent circuit is considered a separate appliance.
4. Under 40 C.F.R. § 82.152, an MVAC is an appliance that is a motor vehicle air conditioner as defined in 40 C.F.R. § 82.32(d), which states that MVAC "means mechanical vapor compression refrigeration equipment used to cool the driver's or passenger's compartment of any motor vehicle. This definition is not intended to encompass the hermetically sealed refrigeration

systems used on motor vehicles for refrigerated cargo and the air conditioning systems on passenger buses using HCFC-22 refrigerant.”

5. Under 40 C.F.R. § 82.152, an MVAC-like appliance is a mechanical vapor compression, open-drive compressor appliance with a full charge of 20 pounds or less of refrigerant used to cool the driver’s or passenger’s compartment of off-road vehicles or equipment. This includes, but is not limited to, the air-conditioning equipment found on agricultural or construction vehicles. This definition is not intended to cover appliances using R-22 refrigerant.
6. Under 40 C.F.R. § 82.152, a small appliance is any appliance that is fully manufactured, charged, and hermetically sealed in a factory with five (5) pounds or less of refrigerant, including, but not limited to, refrigerators and freezers (designed for home, commercial, or consumer use), medical or industrial research refrigeration equipment, room air conditioners (including window air conditioners, portable air conditioners, and packaged terminal air heat pumps), dehumidifiers, under-the-counter ice makers, vending machines, and drinking water coolers.
7. Under 40 C.F.R. § 82.154(a), no person maintaining, servicing, repairing, or disposing of appliances may knowingly vent or otherwise release into the environment any refrigerant or substitute from such appliances, with certain exceptions not relevant to this matter.
8. Under 40 C.F.R. § 82.155(b), the final processor—i.e., persons who take the final step in the disposal process (including but not limited to scrap recyclers and landfill operators) of a small appliance, MVAC, or MVAC-like appliance—must either:
 - (1) Recover any remaining refrigerant from the appliance in accordance with 40 C.F.R. § 82.155(a); or
 - (2) Verify using a signed statement or a contract that all refrigerant that had not leaked previously has been recovered from the appliance or shipment of appliances in accordance with 40 C.F.R. § 82.155(a). If using a signed statement, it must include the name and address of the person who recovered the refrigerant and the date the refrigerant was recovered. If using a signed contract between the supplier and the final processor, it must either state that the supplier will recover any remaining refrigerant from the appliance or shipment of appliances in accordance with 40 C.F.R. § 82.155(a) prior to delivery or verify that the refrigerant had been properly recovered prior to receipt by the supplier.¹

FACTUAL BACKGROUND

9. Ecology Tech owns and operates a scrap recycling facility (the Facility) at 336 East Sullivan Road, Aurora, Illinois.

¹ In the Preamble to the original rule and in revisions to 40 C.F.R. Part 82 Subpart F, EPA described under what circumstances a contract was appropriate and when a disposer should use a signed statement: “EPA notes here that a contract is appropriate for businesses to streamline transactions in cases where they maintain long-standing business relationships. A contract would be entered into prior to the transaction, such as during the set-up of a customer account, not simultaneously with the transaction. A signed statement is more appropriate for one-off transactions between the supplier and the final processor.” 81 Fed. Reg. 82,272, 82,309 (Nov. 18, 2016).

10. At its Facility, Ecology Tech accepts for recycling and disposal, among other things, small appliances and MVACs that contain or once contained refrigerant, and is therefore subject to requirements at 40 C.F.R. Part 82, Subpart F.
11. As a scrap recycler, Ecology Tech is the final processor of small appliances, MVACs, and MVAC-like appliances, and is therefore subject to 40 C.F.R. § 82.155(b).
12. EPA inspected the Facility on August 18, 2021.

FINDINGS AND VIOLATIONS

13. At the time of the inspection, Ecology Tech stated that it accepted small appliances at its Facility only if the refrigerants were no longer in the units and rejected appliances with improperly cut lines.
14. At the time of the inspection, Ecology Tech accepted vehicle air conditioning radiators. Ecology Tech can determine approximately how many units it accepted based on the weight of the load.
15. Vehicle air conditioning radiators are MVACs as defined in 40 C.F.R. § 82.152.
16. At the time of the inspection, Ecology Tech accepted an estimated two to three refrigerators per day from both peddlers and commercial suppliers.
17. At the time of the inspection, Ecology Tech stated that commercial customer accounts made up approximately 80% of its business.
18. Refrigerators are small appliances as defined in 40 C.F.R. § 82.152.
19. At the Facility, EPA inspectors observed a large scrap pile containing several window air conditioning units.
20. Window air conditioning units are small appliances as defined in 40 C.F.R. § 82.152.
21. At the time of the inspection, Ecology Tech did not recover, and had never recovered, refrigerant from small appliances or MVACs accepted at its Facility.
22. At the time of the inspection, Ecology Tech could not provide EPA with documentation that a third party had recovered the refrigerant from any MVACs or small appliances.
23. For an unknown period, receipts issued by Ecology Tech to peddlers for scrap metal purchases included a disclosure stating that sellers certify that all nonexempt refrigerants would be recovered prior to delivery to Ecology Tech. The receipts did not require peddlers to provide the name or address of the person who recovered the refrigerant in accordance with 40 C.F.R. § 82.155(b)(2). During the inspection, Ecology Tech claimed that its system had crashed approximately five months prior and had since been printing receipts without the disclosure statement.
24. At the time of the inspection, when peddlers sold MVACs or small appliances to Ecology Tech, Ecology Tech did not require them to verify, using a signed statement or a contract, that all refrigerant that had not leaked previously had been recovered from the appliance or shipment of appliances.

25. As of the time of the inspection, Ecology Tech had never used a signed statement requiring the name and address of the person who recovered the refrigerant or the date refrigerant was recovered to verify compliance for individual transactions of appliances and MVACs.
26. By failing to recover refrigerant from appliances during scrap recycling, use a signed statement that includes the name and address of the person who recovered the refrigerant and the date the refrigerant was recovered, or use a contract to verify that all refrigerant had been properly recovered prior to delivery, Ecology Tech has violated 40 C.F.R. § 82.155(b).

ENVIRONMENTAL IMPACT OF VIOLATIONS

27. These violations caused emissions of ozone depleting substances, including chlorofluorocarbons (CFCs) and hydrochlorofluorocarbons (HCFCs).
28. CFCs and HCFCs have shown to contribute to the depletion of the stratospheric ozone layer, which protects life on Earth from the sun's harmful ultraviolet (UV) radiation.
29. UV radiation has been associated with adverse health effects, including skin cancer, cataracts, and immune suppression. UV radiation may also have adverse effects on plant life and aquatic ecosystems.
30. Many Class I, Class II, and non-exempt substitute refrigerants have a high global warming potential (GWP), for example, CFC-12 has a GWP 10,900 times the potency of carbon dioxide, R-22 has a GWP 1,810 times the potency of carbon dioxide, and R-134a has a GWP 1,410 times the potency of carbon dioxide.

Michael D. Harris
Division Director
Enforcement and Compliance Assurance Division